

STATE OF MAINE
DEPARTMENT OF CONSERVATION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

ZP _____

**PETITION FOR REZONING
UNDER MAINE LAND USE REGULATION COMMISSION LAW
(12 M.R.S.A., SECTION 681 et seq)**

INSTRUCTIONS:

ANSWER ALL QUESTIONS AND ATTACH ALL EXHIBITS.
PLEASE TYPE OR PRINT CLEARLY IN INK.
PLEASE MAKE SURE THAT YOUR NAME IS ON ALL DOCUMENTS THAT YOU
SUBMIT.

ATTACH CHECK OR MONEY ORDER PAYABLE TO TREASURER, STATE OF MAINE;
FOR THE APPROPRIATE APPLICATION FEE.

1. Name of Petitioner: Marion Transfer Station, Inc. ("MTS")

Mailing Address: Attn: Milan Jamieson
P.O. Box 223
Pembroke, ME 04666

Telephone Number: 726-4561

2. If you have an agent, such as your real estate agent, lawyer or contractor acting on your behalf regarding this petition, please complete the following authorization:

I hereby authorize: Timothy A. Pease, Esq.

Dean Bradshaw

Mailing Address: 84 Harlow Street
Bangor, ME 04401

95 Hinckley Point Road
Dennysville, ME 04628

1. Telephone Number: 947-4501

726-5065

To act as my legal agent in all matters relating to this Petition for Rezoning. I understand that I am ultimately responsible for compliance with all conditions and limitations of any permit issued to me by the Maine Land Use Regulation Commission.

Petitioner's Signature: _____

Date: _____

3. **Petitioner's status is:** Corporation (EXHIBIT A, Certificate of Good Standing)

(EXHIBIT B, Lease Agreement - Lakeville Shores Inc. and Marion Transfer Station, Inc.

4. **Where is the property located?** 90-00-0 Road, No. 14 Plantation, Washington County, Maine

How many acres do you own, lease or otherwise control in this town, township or plantation? Approximately 4,700 acres

How many acres are you are proposing to rezone? 190 acres

Is the property for which rezoning is proposed located within the watershed of a lake? No.

5. **Current Zoning:** What is the current zoning of all of the area included in this petition for rezoning? M-GN (Management General Subdistrict) (EXHIBIT C Tab 1, Maine Land Use Regulation Commission Land Use Guidance Map).

6. **Requested Zoning:** What zoning are you petitioning to have applied to the land involved? D-GN (Development General Subdistrict).

7. **Current Use:** What is the current use of the land involved in this petition to rezone? Commercial timberland.

8. **Recent History:** How has this land been used over the past ten years? Growing and harvesting timber.

9. **Surrounding Uses and Resources:** What are the uses and resources of the land surrounding the area for which rezoning is being petitioned? (i.e., commercial forest, farm land, seasonal residential use, year round residential use, commercial uses, etc.)

East – Protection of Cathance Stream/conservation holdings. There is also state-owned land to the east. Further to the east along Ridge Road are sparsely populated residential areas and blueberry lands

North – commercial timberland and proposed for development by Cathance Shores, LLC; public lands

West – large, sparsely populated residential lots

South – commercial timberland

10. Existing Development: If there is existing development in the area, indicate what type, how much and how close. If there are a number of different uses in the area, indicate each use.

See response to No. 9 above.

11. Proposed Uses: What use(s) do you propose to make of the land involved in this petition to rezone and why? MTS proposes to develop a landfill primarily for construction and demolition debris (“CDD”) generated in Washington County. In addition, based on the historical use of the existing MTS CDD landfill, MTS expects to receive a percentage of CDD waste from Hancock and other counties. The proposed landfill consists of seven cells, each covering approximately 2.6 acres, for a total of 18 acres. The landfill will be a “secure” landfill, in that it will have a three-layer liner system underneath the waste area to protect the groundwater. This new facility will replace the current CDD waste facility operated by MTS.

(EXHIBIT D, a copy of on-site soils, mapping, including five foot interval topographic contours, of the entire site proposed for rezoning).

12. Anticipated Impacts: Do you anticipate that your proposed use of the land would result in any favorable impacts on any of the surrounding land, resources and/or uses in the local community or area? Yes. The economic impact of the building and site development work, along with the continued operation itself, will have a positive and long-lasting economic impact on the area. See Paragraph 18 for details.

Do you anticipate that your proposed use of the land would result in any unfavorable impacts on any of the surrounding land, resources and/or uses in the local community or area? No known negative impacts at this time.

(EXHIBIT E, letters from town, plantation and/or county officials describing what they anticipate as impacts, both favorable and unfavorable, of your proposed use of the land on the local community)

13. Services: What municipal or county services (i.e. solid waste disposal, fire and police protection, schools and school transportation, etc.) will your proposed use of the land require?

The proposed project may require limited fire and police protection. The Dennys River Volunteer Fire Department and Ambulance Service provide fire protection for the area, and the Washington County Sheriff's Department provides police protection for this area.

(EXHIBIT F, letters from town, plantation and/or county officials indicating that each of the municipal services you have listed are, or will be, available to your proposed use of the land)

14. Protection/Management Zoning Proposal: Is the new zone that you propose more appropriate for the protection and management of the existing uses and resources in the area? Not applicable.

15. Subdivision or Development Zoning Proposal: If your proposed rezoning is for a subdivision or development proposal, you must provide information in response to the following questions concerning whether the land for which rezoning is petitioned is likely to be suitable for the proposed use.

A. Compliance with Laws and Standards: Describe what provisions will be made to comply with the Commission's development standards and other applicable environmental laws: i.e., the Site Location of Development Law (for major development proposals), and laws relating to solid or hazardous waste disposal, air pollution and water pollution control, where applicable.

The development proposal will comply with all applicable development standards and other environmental laws. For example, Marion Transfer Station, Inc. has submitted an application for a determination of public benefit for a new solid waste disposal facility to the Maine Department of Environmental Protection.

B. Water Supply: Describe what provisions will be made for securing and maintaining a healthy water supply to the site.

Non-potable water will be supplied by connection to monitoring wells. Because the need for potable water will be limited, it will be brought to the site in bottles

C. Traffic: Describe what provisions will be made for parking and safe traffic flow.

In the immediate vicinity of the landfill, provisions will be made for adequate parking and circulating lanes for trucks entering and exiting the site. Overall, the amount of traffic generated on state and local roads by this facility will be the same as the current facility in Marion Township. That landfill is approximately 4-5 miles away from the proposed site. Current roads on the proposed site are

used for large, heavy log trucks, and are well-maintained. It may be necessary, however, to widen certain areas of the road and decrease the slopes of certain areas.

D. Erosion Control: Describe what provisions will be made for stabilization and erosion control of the site.

MTS will have a professionally prepared stabilization and erosion control plan that will be monitored and administered by appropriately licensed professionals. The plan will meet or exceed all applicable standards.

E. Subsurface Waste Water Disposal: Describe what provisions will be made to comply with requirements of the Subsurface Waste Water Disposal Rules of the Maine State Plumbing Code:

MTS will provide for a waste water disposal for the office, work staff, and visitors that will comply with all applicable standards.

F. Harmonious Fit: Describe what measures will be taken to fit the proposal into the existing surroundings. Include any special considerations given to siting, design, size, coloring, landscaping, or other factors which will lessen the impact of the proposal on the surroundings.

The landfill area is sparsely covered with trees – mostly hardwood. The trees will be removed in the footprint area of the landfill. Active landfill operations will be conducted by sections. As each section is filled, it will be covered with a grassy surface. Because of the remote location, the landfill will not be visible from most areas off-site areas.

G. Scenic Impacts: Describe what measures will be taken to minimize impacts of the new proposed land use on the scenic quality of the area. Consideration should be given particularly to visibility from roads used by the public and visibility from water bodies.

Only limited clearing necessary for the landfill footprint will be conducted. Limited areas of the landfill will be active at one time. The landfill will not be visible from water bodies, and will not be visible from most off-site areas.

H. Wildlife Habitat: Describe what measures will be made to minimize impacts of the new proposed land use on wildlife habitat including birds and water fowl? Consideration should be given particularly to riparian zones along waterbodies.

Only a limited area of the 4,700 acre parcel will be used for landfill activities. MTS will inventory and survey the wildlife on its parcel, and create and implement a wildlife management plan. The landfill is expected to generate sufficient revenue to manage and enhance wildlife on the parcel.

16. Comprehensive Plan, Goals and Policies: Specific goals of the Commission, as outlined in the Commission's Comprehensive Land Use Plan, are to guide the location of new development to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another, and to allow for a reasonable range of development opportunities important to the people of Maine.

How will your proposed change in zoning be consistent with the Commission's Comprehensive Land Use Plan? Chapter 5, Section II(A)(4) states as a policy to "[g]uide proposals for major new waste disposal and similar facilities to locations on the fringe of the jurisdiction that have good existing road access, and are separate from incompatible land uses." The proposed landfill meets these policy objectives. First, the proposed site is on the fringe of the jurisdiction. Township 14 borders three towns which are not in LURC jurisdiction – Cooper, Charlotte and Dennysville. Second, there is good existing road access to locations in all directions via Routes 191 and 86. Third, the proposed landfill will be located on a small area within a much larger parcel. The larger area will be available for wood harvesting, recreational uses, and wildlife management. This larger area will also serve as a buffer to adjacent uses.

One of those policy statements contained in the Comprehensive Land Use Plan encourages orderly growth within and proximate to existing, compatible developed areas. When considering any petition for rezoning, the Commission places considerable weight on this adjacency objective. To assist the Commission in its determination as to how your proposal fits the adjacency objective, please provide, with as much detail as possible, a description of existing nearby development, including distances of such existing development, both straight line and by road, from your proposed development.

The proposed site is 4-5 miles from the existing CDD landfill in Marion Township. The landfill is to be centrally located within a much larger parcel, creating a natural buffer to surrounding uses. This is an appropriate site in that it will not generate additional truck traffic on state and local roads above and beyond current usage.

17. Shoreland Criteria: The Comprehensive Land Use Plan also contains a number of policy statements that pertain directly to shoreland planning and management and provide review criteria for permit applications for various subdivision and development proposals which could affect the shoreline, including petitions for rezoning prior to such activities. If your petition for rezoning includes any shoreland areas, you will need to respond to these criteria. Not applicable.

18. Need: Under provisions of 12 MRSA, Section 685-A (8), no change in a district boundary shall be approved unless there is substantial evidence that the change in zoning will satisfy a demonstrated need in the community or area. As part of your petition for rezoning, you must provide substantial evidence to demonstrate that a need exists, where that need exists, and how your proposed rezoning is anticipated to satisfy that need. Please keep in mind that market demand does not necessarily constitute need in the community or

area for the rezoning. Effective April 1, 2004, the Commission issued a document entitled “Clarifying the Rezoning Criterion of “Demonstrated Need.” Zoning resulting in a new development subdistrict may only be approved when the Commission finds the following criteria are met” The change must (1) be consistent with the Comprehensive Land Use Plan, (2) *satisfy a demonstrated need in the community or area*, and (3) have no undue adverse impacts on resources or uses. 12 M.R.S.A. §685-A(8-A). The Commission drafted this guidance document to clarify the meaning of the demonstrated need criterion by listing a series of relevant factors, or evaluation criteria, by which demonstrated need can be judged. There are five evaluation criteria applicable to both residential and non-residential projects, and five criteria applicable specifically to non-residential projects such as this. Each of these criteria is addressed below.

Evaluation Factors for Both Residential and Non-Residential Projects

1. Presence of Existing Compatibly Zoned Areas. The area of the proposed rezone does not contain undeveloped areas that are already appropriately zoned for the proposed use. According to the Land Use Guidance Map for Township 14, there are no areas that are already zoned that would permit the operation of a CDD landfill. See EXHIBIT C Tab 1. Indeed, the only D-GN zoned areas in Township 14 are limited to small segments of land along the western shore of Cathance Lake.

Likewise, the surrounding Townships under LURC control have very few areas zoned D-GN. In Marion Township, which is located to the South of Township 14, is mostly zoned M-GN, with a very few small parcels zoned D-GN scattered throughout the Township. See EXHIBIT C Tab 2, Maine Land Use Regulation Commission Land Use Guidance Map, Marion Township. The same is true for Edmunds Township, located to the Southeast of Township 14, and T18 ED BPP, located to the West of the Township 14. See EXHIBIT C Tab 3, Maine Land Use Regulation Commission Land Use Guidance Map, Edmunds Township, and Tab 4, Maine Land Use Regulation Commission Land Use Guidance Map, T18 ED BPP. Accordingly, there are no existing compatibly zoned areas that could accommodate the proposed use.

2. Community Support. MTS members have been actively discussing this project with community leaders for several years. The project has received broad community support, as demonstrated by the documents in Exhibit G.
3. Compatibility with Community Character. The operation of a CDD landfill in this area is completely consistent with prior activities historically located in the area. MTS was created after the privately owned Downeast Landfill ceased operation in 1992. MTS sought and obtained permits from LURC and the DEP for a transfer station on land owned by Washington County. MTS selected a site in Marion Township for the station. Marion Township is immediately adjacent (to the south) to Township 14. From its inception, the unorganized territories of Marion, Trescott, Edmunds, Townships 14, 18, 19, 21, 27, Brockton, and Lambert Lake were involved as members. Until 1998, municipal solid waste was shipped to the PERC facility in Orrington. Thereafter, municipal solid waste was shipped to the Southwest Landfill in New Brunswick, Canada. However, neither facility would accept CDD waste.

By 1997, the lack of capacity for CDD waste disposal was identified as an issue. MTS located a site for CDD waste disposal across the road from the existing transfer station. In 1998, MTS sought and received permits for the six acre CDD landfill in Marion Township. That landfill became operational in 1999, and has been in continuous operation since then. Accordingly, CDD landfill operations have been in existence in the immediate area of the proposed CDD landfill for several years.

4. Economic Benefit. This project will improve the economic well-being of not only the community in which it is sited, but the entire region as well. The project will have a positive impact for a number of reasons. First, the project itself will create jobs. A new CDD facility will employ 2-3 full-time employees, as well as 2 part-time employees.

Second, the project will result in secondary job growth. As shown by the experience with the existing operation, a CDD landfill in Washington County will attract vendors to use the facility. A case and point is Mark Wright of Columbia. Mr. Wright recently entered the CDD handling business. Mr. Wright handles CDD primarily from Washington County, but also accepts some waste from Penobscot and Hancock counties. The Marion CDD landfill is currently accepting Mr. Wright's CDD waste, and provides a cost-effective disposal area for the waste he collects. This experience of the Marion landfill has shown that a local and cost-competitive CDD landfill will attract vendors who wish to enter the CDD handling business.

Third, the project will prevent the loss of existing jobs and keep CDD waste handling costs in check. Vendors such as Mark Wright depend on the Marion Landfill to accept the CDD waste they handle. The Marion Landfill is nearing its capacity limit. If another CDD landfill is not developed in this area, CDD waste will have to be trucked to the nearest facilities, which are in Old Town and Hampden. Were this to happen, the extra transportation costs would drive up the overall handling costs, which would potentially put local CDD handlers out of business. It is estimated that transporting CDD waste to either of these facilities will add \$50.00 to the cost of the disposal of each ton of waste. This added cost puts a large number of CDD handlers at risk. The current Marion Landfill has accepted CDD waste from at least ten major vendors over the last eighteen months. See Exhibit G. Letter from CES, Inc. to Karen Knuuti, Department of Environmental Protection, RE: Application for a Determination of Public Benefit, T 14. Those vendors, as listed in the CES, Inc. letter, include:

- Mark Wright Construction & Disposal
- Moose Island Solid Waste Disposal
- Edward Hanson
- Harris Downeast Disposal
- Lilac/Sunrise Disposal
- Eastern Maine Recycling, Inc.
- DM&J Enterprises, Inc.
- Machias Bay Area Transfer Station
- Pleasant River Transfer Station
- Trash and demolition debris from Campobello

Fourth, the operation will prevent an outright CDD disposal monopoly by Casella Waste Systems. Although Casella is very experienced in waste disposal, CDD waste disposal is an essential service. There is and will continue to be a flow of CDD waste that will require disposal, whether or not a landfill exists in Washington County. CDD waste will not go away simply by refusing to permit a landfill in Washington County. If there is no locally available site, CDD handlers will have no choice but to truck CDD waste all the way to Old Town or Hampden. Casella Waste Systems operates both sites, giving them a monopoly on disposal in the region. Not only is it unwise from a policy perspective to rely on one vendor to provide this essential service, the track record of the Marion landfill demonstrates the viability of a CDD landfill in this region. The fact of the matter is that the Marion CDD landfill has attracted multiple vendors and sustained operations for several years. The operation has been so successful that it is already approaching its capacity, much earlier than expected. This is not due to trucking in CDD waste from out-of-state, but due to a pressing demand for local and cost-effective disposal. In short, the unqualified success of the existing operation itself demonstrates the wisdom of having a CDD landfill in Washington County and preventing a monopoly of such services over 100 miles away.

5. Special Community of Public Benefit. This project would provide a special community and public benefit because it would improve an existing community facility. As stated in number 4 above with respect to economic benefit, there is and will be an ongoing need to dispose of CDD waste. The current CDD landfill is a “non-secure” landfill. In her letter dated March 22, 2006, Cynthia Darling of the Division of Solid Waste Management for the Maine DEP explained that the DEP is considering phasing out “non-secure” landfills because of the risk they pose to ground and surface water. As it stands now, the DEP limits the size (less than six acres) and the life span (not more than 20 years) of “non-secure” CDD landfills to manage the associated risks. Accordingly, Ms. Darling “suggested that if MTS was interested in providing a more long-term CDD disposal solution it consider siting a secure landfill.” This project, if approved, would replace an existing, “non-secure” CDD landfill and replace with a facility that provides, in the DEP’s words, a “more long-term CDD disposal solution.” At the same time, approving this facility would stop the stream of CDD waste flowing to the “non-secure facility.”

An additional special community and public benefit will be realized through a reinvigorated solid waste recycling program. As revenue from the landfill increases and any debt service is reduced, MTS intends to invest in an enhanced recycling program. The current program is limited due to high operating costs associated with transporting and handling waste in a sparsely populated community. The enhanced recycling program will be designed to make it easier for residents to collect and separate recyclable waste. By design, MTS cannot distribute excess monies it receives to members. Therefore, extra revenue will be invested in education programs for waste reduction and to enhance waste management.

During the life-span of the landfill operations, monies will be set aside to address future CDD disposal needs. There will be an ongoing and long-term need for CDD waste disposal for this region. MTS exists to address CDD waste disposal needs for the long-

term. By design, MTS cannot distribute excess monies it receives to members. Therefore, MTS will have the means and the incentive to manage this project properly to ensure future viability of CDD waste disposal in the region into the future.

Having a low-cost, local CDD waste disposal facility is good for the environment. The fact is that CDD waste is continuously generated by large and small entities. Without a low-cost and local facility, there is a tendency to improperly dispose of the waste by burning it, including it with other waste, or simply disposing of it in the woods or alongside roads.

Additional Evaluation Factors For Non-Residential Projects

1. **Need for Goods and Services.** Under this indicator, the guidance document states that “[m]oderate-to-strong need can be demonstrated if no other businesses in the service area is providing the proposed goods/services.” In this case, MTS is providing the only CDD landfill services in the region. CDD waste disposal services are essential, not simply an accessory. CDD waste generated in Washington County and nearby counties needs to be disposed. If a local CDD landfill is not permitted in Washington County, the waste will have to be hauled by truck to landfills in Old Town and Hampden. For many existing Downeast transfer points, hauling waste to these two locations will add more than 200 miles round trip for each truckload. This added mileage will increase traffic, thereby posing an increased safety risk, will generate additional pollution, and will consume additional natural resources. Further, additional transfer stations to collect CDD waste will have to be constructed in Washington County to facilitate the transfer of the waste from its source point to Old Town and Hampden. Accordingly, approving a local, secure CDD landfill will mitigate the safety and environmental hazards, as well as eliminate infrastructure costs, of trucking CDD waste to Old Town and Hampden.

In addition, area businesses have indicated they support the proposed project. The unfavorable economic conditions in Downeast Maine are well-documented. Failing to approve this project will mean that CDD waste will have to be trucked to Old Town and Hampden, adding \$50.00 to the cost of each ton of waste disposed. This additional cost will be borne by consumers.

Beyond these direct cost-savings, it is important to note that this is **not** a taxpayer funded project. The project will be financed with existing MTS funds supplemented by loans through the construction period. No taxpayer funds will be needed to construct or operate the facility.

Further, taxpayers in MTS member towns and cities will receive an additional benefit because those towns and cities will be charged a disposal fee based on break-even costs. Non-member towns and cities will be charged a higher than break-even cost, but well below the prevailing rate in the Bangor area. Recently, as a point of comparison, MTS has charged \$45-\$50 per ton, before transportation, while Old Town and Hampden landfills have charged \$65-\$75.

2. Projected customer base. It is expected MTS member towns and cities will continue to use the new facility in much the same way as the present facility. The current facility has a proven track record and member towns and cities have come to rely on the facility for CDD waste disposal needs. It is also projected that use by non-member towns and cities will increase. The history of the current landfill confirms that there is a need for a local, cost-effective CDD landfill in Washington County. Demand at the current MTS facility has increased throughout the years, causing the landfill to near capacity much sooner than first predicted. This fact supports the conclusion that a new CDD landfill in Washington County, operated in a cost-effective manner, is necessary to support CDD waste generated in this area.
3. Support for the Forestry, Agricultural, or Fishing Industry. The vast majority of the 4700 acre site will be used to buffer the project from other land uses. MTS's agreement with the sellers provides that the sellers can continue to harvest wood from the parcel for the next 50 years.
4. Support for the Natural Resource Based Outdoor Recreation Industry. In addition to providing a continued source of wood to support the forest industry, the land will be available for recreational purposes, including hiking, hunting, snowmobiling and ATV riding. Only a limited area surrounding the landfill site will be unavailable for these purposes. MTS intends to work closely with stakeholders to ensure compatible uses of the property.
5. Dependence on Site Specific Natural Resources. A CDD landfill site can only be located in very specific areas that have acceptable soils and geology. Very few areas in Washington County have the type of soils and geology necessary to locate a CDD landfill. MTS has performed extensive testing and determined that the proposed site has the characteristics required of such site.

(EXHIBIT G, documentation which substantiates that a need exists in the community or area for which rezoning is being petitioned; documentation which identifies that need; and documentation as to how the proposed rezoning is anticipated to satisfy that need).

19. **Neighboring Landowners: Provide the names and mailing address of ALL individuals, companies or others who own land within 1,000 feet of the parcel for which you seek rezoning.**

Name

Mailing Address

20. **Additional Information:** State any additional facts regarding this petition for rezoning that you feel may further explain your proposal or assist the Commission in its review of your petition. All facts to support the petition are included above.

TO MAKE SURE THAT YOUR PETITION FOR REZONING IS COMPLETE, GO BACK THROUGH THE APPLICATION TO ASSURE THAT YOU HAVE ANSWERED ALL OF THE QUESTIONS AND HAVE ATTACHED ALL QF THE REQUIRED EXHIBITS AND THE APPROPRIATE APPLICATION, FEE.

NOTE: The Maine Land Use Regulation Commission may require, in certain cases; additional information not encompassed within this application.

By signing this petition, the petitioner certifies that he or she has given notice of this petition to all owners of abutting property and those within 1000 feet of the subject property and, if applicable, to Plantation Assessors.

I have personally examined and am familiar with the information submitted in this petition for rezoning, including all attachments, and I believe the information to be true, accurate and complete. I further certify that I will comply with all applicable statutes and with rules adopted by the Maine Land Use Regulation Commission.

Signature of Petitioner

Printed Name and Title

Date of Petition